

Nancy K. O'Rourke  
 Name  
P.O. Box 22971  
Santa Fe, NM 87502  
 Address

FILED  
 UNITED STATES DISTRICT COURT  
 DISTRICT OF NEW MEXICO  
 2013 FEB 28 PM 3:07  
 CLERK-SANTA FE

UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF NEW MEXICO

Nancy K. O'Rourke, Plaintiff  
 (Full Name)

CASE NO. CV 13-193 RHS/ACT  
 (To be supplied by the Clerk)

v.

Northern New Mexico College, Defendant(s)  
Susan Pacheco  
Nancy Barcelo

CIVIL RIGHTS COMPLAINT  
 PURSUANT TO 42 U.S.C. §1983

A. JURISDICTION

1) Nancy K. O'Rourke, is a citizen of New Mexico  
 (Plaintiff) (State)  
 who presently resides at P.O. Box 22971, Santa Fe, NM 87502  
 (Mailing address or place of confinement)

2) Defendant Northern New Mexico College is a citizen of  
 (Name of first defendant)  
Espanola, NM 87532, and is employed as  
 (City, State)  
 . At the time the claim(s)  
 (Position and title, if any)  
 alleged in this complaint arose, was this defendant acting under color of state law?  
 Yes ☐ No ☒ If your answer is "Yes", briefly explain:

- 3) Defendant Susan Pacheco is a citizen of  
(Name of second defendant)  
Espanola, New Mexico, and is employed as  
(City, State)  
Chief of Staff. At the time the claim(s)  
(Position and title, if any)  
 alleged in this complaint arose, was this defendant acting under color of state.  
 Yes ☐ No ☒ If your answer is "Yes", briefly explain:

(Use the back of this page to furnish the above information for additional defendants.)

*continued "2.B"*

- 4) Jurisdiction is invoked pursuant to 28 U.S.C. §1343(3), 42U.S.C. §1983. (If you wish to assert Jurisdiction under different or additional statutes, you may list them below.)

## B. NATURE OF THE CASE

- 1) Briefly state the background of your case.

I began working as Human Resource Director at Northern New Mexico College in September, 2007. My salary was \$52K per year. Over the next (almost) five years, the only raise most employees (including myself) were given was a Legislatively granted \$1,132, annual. I had five direct supervisors during the time I was employed at Northern due to three changes of administration. When Dr. Andres Salazar was my boss, he budgeted a raise for me to \$65K per year for the fiscal year beginning 7-1-2010. That raise was blocked by the President of Northern, Nancy Barcelo, Ph D. Susan Pacheco promised me I would receive the raise effective September 1, 2010. I did not receive the promised raise. Citing budgetary concerns, Susan Pacheco told me in September I would receive the raise effective January 1, 2011. Again, I did not receive the promised raise. Blaming the President for dragging her feet, Susan Pacheco told me in January I would receive the promised raise effective

3) Defendant Nancy Barcelo PhD, is a citizen of Espanola, New Mexico  
and is employed as President Northern New Mexico College. At the time the claim(s) alleged in  
this complaint arose, was this defendant acting under color of state.

Yes ☐ No ☒

July 1, 2011. Again I did not receive the promised raise. Susan Pacheco cited budgetary constraints as the rationale for not giving me the promised raise. During this time however, July 1, 2010 to July 1, 2011, a number of Hispanic males received raises of up to \$18K or were hired to positions comparable to mine in scope at higher salaries than I was being paid. In some instances the Hispanic males' positions were lesser than mine and their qualifications in education and/or experience were less than mine. I was discriminated against based on my race and/or gender and I was retaliated against for seeking equal pay.

### C. CAUSE OF ACTION

- 1) I allege that the following of my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary, you may attach up to two additional pages (8 1/2" x 11") to explain any allegation or to list additional supporting facts.

A)(1) Count I:

DISCRIMINATION – based on race & gender. I was promised a raise by my boss, Susan Pacheco, on 9-1-10; 1-1-11 and 7-1-11; each time the raise was not given. Susan Pacheco told me the reasons were lack of support

*continued 3A*

(2) Supporting Facts: (Include all facts you consider important, including names of persons involved, places and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

B)(1) Count II:

RETALIATION – 11-13-10 – I received a disciplinary letter, without any prior warning, from Chief of Staff Susan Pacheco, my direct supervisor; incidents cited were unsubstantiated and subjective. 8-17-11 I received a Notice of Contemplated Action 9-16-11 without any warning. In the interim, I had asked Susan Pacheco three

*continued 3B*

(2) Supporting Facts:

by the President, Nancy Barcelo and budgetary constraints. However, Hispanic males were being given raises of up to \$18K per year. After my contract was not renewed for fiscal year 2013, I was replaced by a Hispanic male making almost 75% more than I was paid; he did not even meet the minimum education qualifications of the job description.

times if everything was going well, to which she replied yes, they were. Also during the interim I requested my performance appraisal twice and was told by Susan Pacheco that she hadn't had time to create one. On 9-16-11 I was told my position was terminated; no reason was given. On 9-19-11 was told I couldn't use sick leave for Dr. appt. All employees had always used sick leave for this purpose; they were allowed to continue to do so. On 9-27-11 my access to work e-mail was terminated; no reason was given. On 10-17-11 I was put on paid administrative leave until 1-3-12; no reason given. On 1-3-12 I returned to work to find that I had been demoted, my former part-time assistant had become my boss and my office had been moved to a former closet in the basement. Between 1-3-12 and 6-30-13 I was given menial tasks to perform, required to go to another floor to make copies (there was a copier 15 feet from my "office"), required to use my personal cell phone to make business-related calls to employees/perspective employees and twice falsely accused of inappropriate behavior by my next new boss, Domingo Sanchez. My employment contract was not renewed effective 6-30-12.

## 2010/2011 RANGE/GRADE SALARY COMPARISONS

DIRECTOR III	Grade V	SALARY RANGE	NAME	SALARY	RACE	GENDER
Dir Assess/Accredit		\$56k - \$84k	Stephanie Marquez	\$60,000	Anglo	F
Dir DE			Ken Dvorak	\$63,000	Anglo	M
Dean Arts & Sci			Mellis Schmidt	\$75,065	Anglo	F
Dean Community Workforce & CTE			Camilla Bustamonte	\$94,000	Hispanic	F
Dean Financial Aid			Alfredo Montoya	\$82,134	Hispanic	M
Dean Teacher Ed			Cathy Berryhill	\$80,000	Hispanic	F
Director of Library			Isabel Rodarte	\$74,152	Hispanic	F
Dir MIS			Jorge Lucero	\$60,000	Hispanic	M
Dir Public Affairs			VACANT			
Dir SBDC			Julianna Barbee	\$74,434	Hispanic	F
Registrar			Jan Dawson	\$60,000	Anglo	F
EXECUTIVE MANAGEMENT	Grade VI	SALARY RANGE				
CFO			Domingo Sanchez	\$90,000+	Hispanic	M
Chief of Staff			Susan Pacheco	\$70,000	Anglo	F
Dir Admis/Rec/Dean Stud Services			Frank Orona	\$80,000	Hispanic	M
<i>Dir Human Resources</i>			<i>Nancy O'Rourke</i>	<i>\$53,134</i>	<i>Anglo</i>	<i>F</i>
Special Asst to President			Ricky Serna	\$82,000	Hispanic	M



## 2010 and/or 2011 SALARY INCREASES &amp; NEW HIRE SALARIES

NAME	TITLE	AMOUNT OF RAISE	CHANGE OF JOB DUTIES	RACE	GENDER
Frank Orona	Director of Recruitment & Admissions and Dean of Student Services	\$10,791	NO	Hispanic	Male
Ricky Serna	Special Asst to President	\$80,000	New hire	Hispanic	Male
David Schutz	Capital Projects/VP	\$15,000	?	Hispanic	Male
Ryan Cordova	Dir of Athletics/ Male BB coach	\$18,000	NO	Hispanic	Male
Gerald Wheeler	Assistant Registrar	\$5,000	NO	Hispanic	Male
Domingo Sanchez	CFO	\$85,000+	New Hire	Hispanic	Male
	Director of Human Resources	\$80,000+	New hire		
Alfredo Montoya	Director of Financial Aid and Dean of Student Services	\$27,567*	YES	Hispanic	Male

\*the \$27,567 salary was not taken away  
when the Dean of Student Services duties  
were assigned to someone else

C)(1) Count III:

(2) Supporting Facts:

D) PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1) Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to the conditions of your imprisonment?

Yes ☐ No ☒ If your answer is "YES", describe each lawsuit. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

a) Parties to previous lawsuit.

Plaintiffs: \_\_\_\_\_

Defendants: \_\_\_\_\_

b) Name of court and docket number:

c) Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

d) Issues raised: \_\_\_\_\_

e) Approximate date of filing lawsuit: \_\_\_\_\_

f) Approximate date of disposition: \_\_\_\_\_

- 2) I have previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C. Yes ☐ No ☒ If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No," briefly explain why administrative relief was not sought.

There was no higher administrative official not involved in the discrimination and retaliation.

#### E. REQUEST FOR RELIEF

- 1) I believe that I am entitled to the following relief:

Financial compensation for the years I was underpaid based on promises of increased pay and based on comparable pay of individuals in same classification / job size. Also compensation for seven months of unemployment. Also financial compensation for pain and suffering.

\_\_\_\_\_  
Signature of Attorney (if any)

Nancy K. O'Rourke  
Signature of Petitioner

P.O. Box 22971  
Santa Fe, NM 87502

Attorney's full address and telephone number.

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he is the plaintiff in the above action, that he has read the above complaint and that the information contained therein is true and correct. 28 U.S.C. Sec. 1746. 18 U.S.C. Sec. 1621.

Executed at Santa Fe, New Mexico on 2-28 2013  
(Location) (Date)

Nancy K. O'Rourke  
(Signature)

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